

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

SAN ROCCO THERAPEUTICS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 21-1478-RGA
	)	
BLUEBIRD BIO, INC. and THIRD ROCK	)	
VENTURES, LLC,	)	
	)	
Defendants.	)	

**CLAIM CONSTRUCTION ORDER**

Consistent with the Court’s rulings during the March 20, 2024 *Markman* hearing and the Court’s May 29, 2024 Memorandum Opinion (D.I. 168), the Court construes the terms, as used in the asserted claims of U.S. Patent Nos. 7,541,179 (“the ’179 patent”) and 8,058,061 (“the ’061 patent”), as follows:

Claim Term	Construction
“consists essentially of”  (’179 Patent: claims 1, 10, 19, 22–24; ’061 Patent: 1–3, 5–8, 11–12, 15)	“necessarily includes the specific assembly of three recited LCR fragments, which is specifically defined by (1) the HS spanned by each fragment, (2) the restriction sites defining the ends of each fragment, (3) the size of each fragment, and (4) the overall combined size of the three fragments to provide a single nucleotide fragment of 3.2 kb, and is open to unlisted ingredients that do not materially affect the basic and novel properties of the invention, but the combined size of the three HS-spanning fragments so closely approximates 3.2 kb that the number of additional nucleotides that could be added to (or removed from) this fragment is relatively few and nonmaterial”

<p>“a BstXI and SnaBI HS2-spanning nucleotide fragment” / “a BstXI and SnaBI, HS2-spanning nucleotide fragment”</p> <p>(’179 Patent: claims 1, 10, 19, 22–24; ’061 Patent: 1–3, 5–8, 11–12, 15)</p>	<p>“a fragment that is located at nucleotides 8055-8911 and has a size of 857 bp”</p>
<p>“a BamHI and HindIII HS3-spanning nucleotide fragment” / “a BamHI and HindIII, HS3-spanning nucleotide fragment”</p> <p>(’179 Patent: claims 1, 10, 19, 22–24; ’061 Patent: claims 1–3, 5–8, 11–12, 15)</p>	<p>“a fragment that is located at nucleotides 3878-5172 and has a size of 1295 bp”</p>
<p>“a BamHI and BanII HS4-spanning nucleotide fragment” / “a BamHI and BanII, HS4-spanning nucleotide fragment”</p> <p>(’179 Patent: claims 1, 10, 19, 22–24; ’061 Patent: claims 1–3, 5–8, 11–12, 15)</p>	<p>“a fragment that is located at nucleotides 308-1388 and has a size of 1081 bp”</p>
<p>“functional globin”</p> <p>(’179 Patent: claims 1, 10, 19, 22–24; ’061 Patent: claims 1–3, 5–8, 11–12, 15)</p>	<p>“a globin that does not produce a hemoglobinopathy phenotype, and which is effective to provide therapeutic benefits to an individual with a defective globin gene”</p>

Further, the parties previously agreed that, as used in the asserted claims of the ’179 patent and the ’061 patent the following terms have the following meanings, which are hereby adopted by the Court:

Claim Term	Construction
“LCR”  (’179 Patent: claims 1, 10, 19, 22–24; ’061 Patent: claims 1–3, 5–8, 11–12, 15)	“locus control region”
“HS”  (’179 Patent: claims 1, 10, 19, 22–24; ’061 Patent: claims 1–3, 5–8, 11–12, 15)	“hypersensitive site”
“contiguous”  (’179 Patent: claims 1, 10, 19, 22; ’061 Patent: claims 1–3, 5–8, 11–12, 15)	“1. touching; in contact, or 2. In close proximity without actually touching; near.”

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*Attorneys for Defendants bluebird bio, Inc.  
and Third Rock Ventures, LLC*

SO ORDERED this 17 day of June, 2024.

/s/ Richard G. Andrews

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The Honorable Richard G. Andrews  
United States District Judge